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Attorneys for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DANIEL ROMERO and JOANN RAGUSA, -against- BORDEN EAST RIVER REALTY LLC and JOSEPH SIMONE, <i>Plaintiffs,</i> <i>Defendants.</i>	:	X	Civ. No.: 09 Civ. 665 (ARR) DECLARATION IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT
WILLIAM LEE and SZUYU PAN, -against- BORDEN EAST RIVER REALTY LLC and JOSEPH SIMONE, <i>Plaintiffs,</i> <i>Defendants.</i>	:	X	Civ. No.: 09 Civ. 845 (ARR)
KYUNG YEOL SHIN, -against- BORDEN EAST RIVER REALTY LLC and JOSEPH SIMONE, <i>Plaintiff,</i> <i>Defendants.</i>	:	X	Civ. No.: 09 Civ. 845 (ARR)
LORA KAYE, -against- BORDEN EAST RIVER REALTY LLC and JOSEPH SIMONE, <i>Plaintiff,</i> <i>Defendants.</i>	:	X	Civ. No.: 09 Civ. 1228 (ARR)

JOHN GAENZLER and SARA MOSCOSO-GAENZLER,	:	X
	:	
	<i>Plaintiffs,</i>	:
-against-	:	
BORDEN EAST RIVER REALTY LLC and JOSEPH SIMONE,	:	Civ. No.: 09 Civ. 1303 (ARR)
	:	
	<i>Defendants.</i>	:
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ANTHONY ALLICINO,	:	X
	:	
	<i>Plaintiff,</i>	:
-against-	:	
BORDEN EAST RIVER REALTY LLC and JOSEPH SIMONE,	:	Civ. No.: 09 Civ. 1455 (ARR)
	:	
	<i>Defendants.</i>	:
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JULIE and DAVID LIEVRE,	:	X
	:	
	<i>Plaintiffs,</i>	:
-against-	:	
BORDEN EAST RIVER REALTY LLC and JOSEPH SIMONE,	:	Civ. No.: 09 Civ. 1984 (ARR)
	:	
	<i>Defendants.</i>	:
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ZACK FERGUSON-STEGER,	:	X
	:	
	<i>Plaintiff,</i>	:
-against-	:	
BORDEN EAST RIVER REALTY LLC and JOSEPH SIMONE,	:	Civ. No.: 09 Civ. 1196 (ARR)
	:	
	<i>Defendants.</i>	:
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**DECLARATION IN SUPPORT OF MOTION FOR SUMMARY
JUDGMENT**

Bruce H. Lederman, being of full age, hereby declares pursuant to 28 U.S.C.1746, that the following statements are true and correct:

1. I am a member of the law firm D'Agostino, Levine, Landesman & Lederman, LLP, attorneys for defendants, and as such am fully familiar with the facts of this case. A joint statement of undisputed facts is being submitted. I make this declaration in support of a motion

by defendants for summary judgment based upon the joint statement of undisputed facts and the documentary evidence submitted herewith.

2. This declaration is submitted to supplement the joint statement of undisputed facts by providing certain documentary evidence for the Court's consideration in connection with the pending motion.

3. Annexed hereto are the following documents (with references on Exhibits A - P to numbering which was used in document production appearing in lower right corner of each page of each Exhibit):

Exhibit A	March 6, 2009 letter from HUD to Defendant "requesting that you answer the following questions to help us determine whether or not you should be registered" under the Interstate Land Sales Full Disclosure Act (HP 1 – 6)
Exhibit B	April 2, 2009 and April 13, 009 responses to HUD Inquiry, with Exhibits A through K and A through H, respectively (HP 7 – 178)
Exhibit C	April 14, 2009 request for an advisory opinion, with Exhibits A through C, and check for advisory opinion fee (HP 179 – 212)
Exhibit D	April 20, 2009 email request from HUD for additional information (HP 213 – 226)
Exhibit E	April 23, 2009, letter regarding occupancy of condominium units in New York City with Temporary Certificate of Occupancy, and architect's letter stating that each unit listed on Temporary Certificate of Occupancy is "Physically Habitable." (HP 227 – 321)

Exhibit F	May 18, 2009 HUD request for additional information regarding gas, water, sewer and telephone utility services and response (HP 322 – 388)
Exhibit G	May 29, 2009 HUD request for additional certifications and response (HP 389 - 400)
Exhibit H	Various Emails, including June 1, 2009 email from HUD that materials have been submitted “for the Director to review.” (HP 405) and that “the person who will be reviewing and approving is the Director of the Office of RESPA and Interstate Land Sales, Ivy Jackson.” (HP 401-419)
Exhibit I	June 4, 2009 inquiry from HUD regarding Parking and Roof Units and response (HP 420 – 455)
Exhibit J	July 15, 2009 Advisory Opinion and transmittal Emails, and Miscellaneous other emails (HP 456 – 469)
Exhibit K	July 17, 2009 Advisory Opinion, with transmittal email and PDF title “Corrected One Hunters Point 7-17-09.PDF” (HP 470 – 477)
Exhibit L	July 23, 2009 request for clarification and response that the “July 17, 2009 Advisory Opinion is to be considered the most current Advisory Opinion in this matter” (HP 478 – 481)
Exhibit M	July 27, 2009 letter to plaintiffs’ counsel providing copy of the July 17, 2009 opinion letter, and various duplicate copies and miscellaneous emails (HP 482 – 499)

Exhibit N	August 3, 2009 letter from HUD closing its investigation into alleged violations of the Interstate Land Sales Full Disclosure Act, and emails regarding updating website. (HP 500 – 531)
Exhibit O	HUD Website pages showing status of Hunters View and Hunters Point website as “Exempt” (HP 532 – 535)
Exhibit P	Hunter’s Point Offering Plan (numerous amendments have been filed but not included and will be provided upon request if they become relevant) Separate bound copy submitted to Court, previously provided to Counsel for Plaintiff
Exhibit Q	Printout of WebSite No-Condo.Com
Exhibit R	Chart Comparing ILSFDA requirements with NY Offering

4. The foregoing exhibits supplement the agreed statement of undisputed facts.
5. For the Court’s convenience, we are also submitting a separate appendix with prior versions of the applicable statute and legislative history identified as Appendices A through F.

Dated: December 4, 2009



Bruce H. Lederman